

Report to the Planning and Zoning Commission

Prepared by the Maricopa County Planning and Development Department

Case:	TA2003005
Subject:	Temporary Use/Conditional Use Permit Consolidation
Meeting Date:	May 4, 2006
Agenda Item:	14
Supervisor District:	All

Proposal: A proposed text amendment to the Maricopa County Zoning Ordinance to combine the Temporary and Conditional Use Permit processes.

Background: **May 29, 1969:** The current form of the Maricopa County Zoning Ordinance (MCZO) was adopted.

February 20, 1994: TA-93-2 was approved by the Board of Supervisors. This Text Amendment modified the Temporary Use section of the MCZO to delete the use permit category and add the Conditional Use Permit category.

December 22, 2005: TA2003005 was officially initiated by ZIPPOR.

Discussion:

1. It has been over 12 years since the Use Permit process was broken down into two separate components, Conditional Use Permits and Temporary Use Permits. While there is some merit to having two separate categories, staff experience indicates that it creates more problems and confusion than it solves. The current system is inflexible and creates a burden for applicants. Many of the uses allowed via a Conditional Use Permit are considered uses "by right" in other cities and counties. The goal of this Text Amendment is to eliminate the Conditional Use category, make certain uses "by-right", with limitations, and modify the Temporary Use category to include some former Conditional Uses. In addition, staff has also made corrections and updates to the MCZO in regards to grammar and changes in state statutes. This proposed Text Amendment is complex and

encompasses multiple chapters of the MCZO; however, staff hopes that it will reduce the burden on applicants, clarify portions of the Ordinance, improve public notification for certain uses and decrease processing times.

2. Work on this Text Amendment initially began as a response to complaints from the public regarding lack of notification for Caretaker's Quarters approved under the Conditional Use Permit process. Further research by staff indicated that both the public and staff suffered from confusion regarding the two different types of permits. Combining processes and making certain uses "by-right" with conditions will help to eliminate this confusion. With this in mind, staff proposes the following changes:

- Chapter 2 – Definitions: Eliminate Conditional Use definitions and add Temporary Use definitions.
- Chapter 3 – Administration: Eliminate all references to Conditional Uses, update Article 303.1 in accordance with state statutes and revise submittal requirements for Variances.
- Chapter 5 – Rural Zoning Districts: Update references to Building Code, eliminate Conditional Use references, add Temporary Model Home Sales Complex and conditions, add Temporary Construction Office/Yard Complex, with conditions, as "by-right" uses.
- Chapter 6 – Single-Family Residential Zoning Districts: Update references to Building Code, eliminate Conditional Use references, add Temporary Model Home Sales Complex and conditions, add Temporary Construction Office/Yard Complex, with conditions, as "by-right" uses.
- Chapter 8 – Commercial Zoning Districts: Eliminate Conditional Use references, add Temporary Construction Office/Yard Complex, with conditions, as a "by-right" use.
- Chapter 9 – Industrial Zoning Districts: Eliminate Conditional Use references, add Temporary Construction Office/Yard Complex, with conditions, as a "by-right" use.
- Chapter 13 – Use Regulations: Modify Temporary Use section grammar, add Board of Supervisors approved requirements for Temporary Events, transfer Caretaker's Quarters from Conditional Use section, transfer Temporary Seasonal Sales from Conditional Use Section, transfer language regarding Temporary Model Home Sales Office and Temporary Construction Office/Yard Complex add Other Uses category. Amend

language for Temporary Use Permit Regulations. Eliminate all Conditional Use Permit references.

- Chapter 16 – Fees: Eliminate Automation Fee. Eliminate all Conditional Use Permit fees.
 - Chapter 17 – Index and Appendices: Update index to eliminate references to Conditional Use Permits. Update page numbers to accurately reflect references to new information. Add topics indicated in the Ordinance but not referenced in the Index.
3. As can be seen from the list above, numerous changes are proposed with this Text Amendment. While the main component is the Conditional Use/Temporary Use Permit consolidation, the “housekeeping” component of this Text Amendment is also quite important. The Ordinance is currently out of synch with changes to state statutes and recently adopted building codes. This amendment would rectify this situation.
 4. Further refinement of this Text Amendment has added a provision for temporary flag poles, accessory to model home sales complexes, to exceed the height restrictions of the underlying zoning district. This will allow for better recognition of sales complexes in remote areas or in areas already heavily developed with two-story housing. These tall flag poles would be required to be removed when the sales complex is no longer in operation. Staff believes that this is in keeping with current trends, would have minimal impact on the surrounding areas and is temporary in nature.
 5. Staff has also eliminated language in both the model home sales complex category and the construction office/yard category pertaining to the type of construction allowed. Previously, the Ordinance had required all structures in either of these categories to “meet all Building Code requirements for the appropriate category of commercial construction.” This statement had a severe impact on the permitting process for both of these uses. It resulted in difficulty in converting model homes back to residential occupancy standards and added additional requirements for temporary office structures in construction yards. The revised language simply states that these structures must simply comply with the Building Code. This will result in less of a burden on the applicants, reduced processing time and increased flexibility for staff when issuing permits for temporary buildings or conversions.
 6. As this is a major change to the MCZO, staff needs to promulgate a policy for existing Conditional Use Permits to ensure that there is no confusion for applicants or staff. Staff recommends that all existing Conditional Use Permits continue as currently approved and be considered legal, non-conforming. Should

an approved Conditional Use Permit expire, any renewal would be treated as a new application for a Temporary Use Permit, unless the Conditional Use has become a "by-right" use through this amendment. All new Conditional Uses would, of course, be processed as Temporary Use Permits.

7. Staff believes that this consolidation amendment will simplify the permitting process for temporary type uses and reduce confusion among applicants and staff. This amendment will also speed up the permitting process regarding model home sales complexes and construction office/yard complexes. In addition, certain former Conditional Uses will now be posted and potentially undergo public hearing through the Board of Adjustment. This will help to head off potentially undesirable situations with caretaker's quarters and seasonal sales that currently have no public hearing process readily available to them.

Recommendation:

8. Staff recommends that the proposed Text Amendment be **approved** and forwarded to the Board of Supervisors.

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Attachments:

- MCZO, Ch. 2 – Definitions (23 pages)
- MCZO, Ch. 3 – Administration (13 pages)
- MCZO, Ch. 5 – Rural Zoning Districts (13 pages)
- MCZO, Ch. 6 – Single Family Residential Zoning Districts (16 pages)
- MCZO, Ch. 8 – Commercial Zoning Districts (27 pages)
- MCZO, Ch. 9 – Industrial Zoning Districts (19 pages)
- MCZO, Ch. 13 – Use Regulations (22 pages)
- MCZO, Ch. 16 – Fees (4 pages)
- MCZO, Ch. 17 – Index & Appendices (7 pages)